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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,213	04/07/2004	Richard Lunak	050704/306277	7356
826 7590 05/09/2008 ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			EXAMINER ST CYR, DANIEL	
			ART UNIT 2876	PAPER NUMBER
			MAIL DATE 05/09/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/820,213

Applicant(s)

LUNAK ET AL.

Examiner

Daniel St.Cyr

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/13/08.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. This is in response to the applicant's communication filed 03/10/08.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 3-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Liffet al. (US 5,797,515; hereinafter "Lift").

Lift teaches a system (see fig. 1), having a plurality of open shelves (columns 75) containing bins for carrying items (32), said items (32) having indicia (barcode 98) associated therewith; a handheld device (41) programmed to: read the indicia associated with an item for which a restock is desired; receive quantity information associated with the read indicia (i.e., the number of bottles in each column can be recorded and tracked during use, so that if a proper dispensing has occurred through the barcode reader 40, 41, then the transaction is recorded to the database 407, so that the inventory of cabinet 20 is automatically monitored and updated (col. 6, lines 45-67; col. 7, lines 14-23; col. 18, lines 20-41)); and transfer the information associated with the read indicia and the quantity information to enable a restocking package to be prepared ("if a proper dispensing has occurred, the transaction is recorded to the data base 407, and the computer determines whether inventory is at or below a predetermined restock value 408 ... calling the distribution headquarter to replenish inventory..." col. 18, lines 20-41; col. 6, lines 45-67; col. 7, lines 14-23); and a computing device configured to receive the transferred information

and compare the received quantity information to a par level for the item, so that the restocking package can be prepared when the quantity information is less than the par level ("if a proper dispensing has occurred, the transaction is recorded to the data base 407, and the computer determines whether inventory is at or below a predetermined restock value 408 ... calling the distribution headquarter to replenish inventory..." col. 18, lines 20-41; col. 7, lines 14-23; col. 6, lines 45-67).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lift in view of Frederick et al. (US 6,112,502; hereinafter "Frederick"). The teachings of Lift have been discussed above.

Lift teaches wherein the transferring step includes the step of downloading to a central database (host computer 46, municipal service center 106, remote control dispenser 108 in fig. 1, col. 7, lines 14-23; col. 6, lines 45-67; headquarter 100 in fig. 2, col. 7, lines 57-66), but Lift fails to specifically teach a cradle for receiving the handheld device.

Frederick teaches a cradle (354 in fig. 40) for receiving the handheld device" (bar code reader 348 in fig. 40 or 542 in fig. 55), and wherein the transferring step includes the step of downloading to a central database when the handheld device is stored in the cradle (for example,

log off the database when the reading device is returned to the cradle, and/or initiate/send message to the database, etc.)(col. 41, lines 1-24; col. 8, lines 10+; col. 55, lines 7+).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the well-known cradle, which is used to download information to/from the central database when the handheld device is stored in the cradle as taught by Frederick to the teachings of Lift in order to provide a docking station, for the handheld device 41, which is able to communicate throughout the network/database. Such modification would make the downloading step more effective due to the fact the hand held device is physically attached to a docking station. Therefore, it would have been an obvious extended step as taught by Lift.

Response to Arguments

6. Applicant's arguments filed 3/10/08 have been fully considered but they are not persuasive. See examiner remarks.

REMARKS:

In response to the applicant's argument that the reference (Lift et al) fails to disclose the features of claims 1 (i.e. a hand held (portable) device programmed to receive order quantity information associated with the read indicia for decentralized storage location, etc.), the examiner respectfully disagrees. Lift teaches in fig. 4, a computer 46 that could be a portable terminal, a notebook computer, a hand held personal digital assistant, in communication a decentralized storage location 106; a plurality of dispensing cabinet 20; a bar code reader 40; a keyboard 64, etc., the reference meets all the claims' limitations (see col. 7). The structure of Lift et al is capable of performing the functions set forth in the claims.

The applicant's general argument is based on that Lift et al fail to teach the elements of claim 1, the examiner respectfully disagrees. As shown above, the reference meets the limitations as set forth in the claims. The reference is capable of performing all the functions set forth in the claims. The applicant's argument is not persuasive. Refer to the rejection above.

Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel St.Cyr whose telephone number is 571-272-2407. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DS
May 9, 2008

/Daniel St.Cyr/
Primary Examiner, Art Unit 2876